

S.B. CIVIL MISC. APPEAL NO. 829/2001

Date : 24.03.2006

HON'BLE MR. BHAGWATI PRASAD, J.

Dr. Anil Bachhawat for the appellant.

Mr. N.L. Joshi] for the respondent.

Mr. B.S. Bhati]

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Heard.

The question of negligence is being raised by the Corporation in this appeal. This is admitted that the conductor of the bus which was being driven backward died after ten days after getting sandwiched in between the stationary vehicle and the vehicle which was being driven backward.

According to the learned counsel for the appellant, there is negligence on the part of the deceased. The driver wants to take advantage of the statement of the conductor (deceased) as recorded under Section 174 of the Act. The claim petition has been supported by the witnesses stating inter alia that the driver was not vigilant enough while backing up the vehicle. Had he taken care to place his vehicle properly, the crushing effect would not have taken place. In that view of the matter, negligence of the driver as has been held by the tribunal cannot be agitated and deserves to be upheld. Once the negligence of the driver is upheld, the award as has been passed by the Tribunal cannot be impugned. Otherwise also, if the award would have been sought by the claimants under Workmen Compensation Act, the defence of the appellant would not have stand. A sum of Rs. 2,07,000/- has been awarded to the

claimants which is considered to be sufficient and in that view of the matter also, no case for interference is made out. The appeal having no force is hereby dismissed.

(BHAGWATI PRASAD), J.

bjsh